

11
BRITANNIA LIBERA,

OR A

DEFENCE

OF THE

FREE STATE OF MAN

IN

ENGLAND,

AGAINST THE

CLAIM OF ANY MAN THERE AS A SLAVE.

INSCRIBED AND SUBMITTED TO THE

JURISCONSULT,

AND THE

FREE PEOPLE OF ENGLAND.

There is no reward or honour assigned unto those that know how to encrease or preserve human nature: all honours, greatness, riches, dignities, empires, triumphs, trophies, are appointed for those that know how to afflict trouble or destroy it.

CHARRON.

L O N D O N

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Defence of the Free State of Man in ENGLAND.

MANY of the kings subjects, inhabitants of the *English* colonies in *America*, having of late years brought thence some of their *slaves*, and repeated questions been made whether they continue *slaves* here, or become free, and the honour, liberty and interest of the kingdom being herein concerned, let us briefly consider the institution or admission of *slavery* by various ancient nations, the laws, regulations and condition of the *slaves* in *Greece*, and of the *slaves* of the *Romans*, from whom *slavery* was deduced into the west, the abolition of it in *Christendom*, and the partial revival of it by the *European* states concerned in the modern marine discoveries, the consequent conquest of foreign dominion and settlements, with the rise and progress of the *feudal system*, and other explanatory matters.

All men are by nature free, and “ *slavery* was a state of life unknown
 “ to the first races of mankind, til discord armed them against one an-
 “ other, and gave rise to subordination and dependance. Then the
 “ weakest were forced to submit to the will of the strongest, and by
 “ the laws of war the conqueror was deemed to have an absolute and
 “ unlimited right over his captives. After having once subdued them
 “ they thought their lives were at his disposal. The death of the con-
 “ quered was by a kind of tacit condition the sure consequence of the
 “ victory; but interest, policy and humanity often stoped the conquer-
 “ ors hand. He might perhaps abhor such monstrous barbarity as to
 “ kill men in cool blood; or the advantages he might reap by saving
 “ their lives might induce him to spare them; so that in order to secure

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“ to himself a good which was given him by the laws of arms he obliged his captive to become this *slave*.” Of the origin of the term *slave* Sir *Walter Raleigh* gives this account. “ From the *Sclavi* came the word *slave*; for when that nation issuing out of *Sarmatia*, now called *Russia* (about the time of the emperor *Justinian*) had seized upon the country of *Illyria*, and made it their own by conquest, their victory pleased them so highly that thereupon they called themselves by a new name *Slavos*, which is in their language *Glorious*: but in after times (that warmer climate having thawed their northern hardness, and not ripened their wits) when they were trodden down, and made servants with their neighbours, the *Italians*, which kept many of them in bondage, began to call all their bondmen *slaves*, using the word as a name of reproach; in which sense it is now current in many countries.”

A.M. 2276. The first man certainly known by name, or otherwise, to have been sold for a *slave* was *Joseph*. The true relation of this sale, and its consequences are well known. *Justin*, in his extracts from the forty-four books of the history of the world written by *Trogus Pompeius*, relates that *Joseph's* brethren, fearing his excellent genius, privily intercepting him, sold him to foreign merchants; that being carried into *Egypt* he grew into great favour with the king; that all divine and human rights seemed well known to him; and that all *Egypt* would have perished by famine, if the king had not, pursuant to his advice, by edict commanded the fruits to be reserved for several years. *Exod. xxi, 16*, contains the following law, *He that stealeth a man, and selleth him, or if he be found in his hand, he shall surely be put to death.*

According to *Florianus*, and *Johannes à Ponte*, cited by the celebrated *Solerzano*, the *Tyrians* stole from *Spain* not only gold, silver, and other valuable things, which greatly contributed to make *Tyre*, the metropolis of the *Phœnicians*, accounted the most rich and powerful among all nations; but they likewise stole the unwary natives by various wiles and devices, whom they disposed of in *Phœnicia* and other provinces as the vilest *slaves*. The abundance of treasure they got from *Spain* may be accounted for by the relation of *Diodorus Siculus*, who is supposed to have lived under *Julius Cæsar* and *Augustus*. He spent about thirty years in composing his historical library, for which purpose he went to *Rome*,

to

to obtain the best information; and moreover traveled into several provinces of *Europe* and *Asia*, to avoid the errors of others respecting countries they had never seen. The elder *Pliny* commends him as the first of the Greeks who rejected the relation of trifles, and *Photius*, the famous patriarch of *Constantinople* commends his stile as very clear and fit for history. In his description of the mines of *Spain* he saith " the
 " *Pyrenæan* mountains surpass the others in height and magnitude, and
 " being covered with great and thick woods, it was related that this
 " whole mountanous country was in old times entirely destroyed by a
 " general conflagration, being set on fire by the shepherds, and that the
 " fire continuing to rage many days with great fury there issued from
 " different parts of the mountains rivulets of pure silver, whose use be-
 " ing unknown to the inhabitants, the merchants of *Phœnicia* coming
 " to the knowledge of it obtained it in exchange for trifling commodi-
 " ties, and by transporting it into *Greece*, *Asia*, and all other nations, ac-
 " quired great riches, and that by long continuance of this traffic the
 " *Phœnicians* being enriched they sent out many colonies into *Sicily* and
 " the adjacent islands, into *Africa*, *Sardinia*; and lastly into *Spain*." This piece of history coincides with the description given by the prophets of the great commerce, wealth and pride of *Tyre*.

These enterprising traders, the first great navigators of the world, having in the course of their success and their grandeur imported for their own use a great number of *slaves*, they conspired, slew their masters, and all the freemen, took to themselves their wives and daughters, with the whole city, and raised a new common-wealth; a dreadful example, saith *Justin*, to all the world, who nevertheless went on in their former course of *enslaving* one another. Of so many thousand *slaves* there was one of a mild disposition, who being moved with compassion for his old master, *Strato*, and his young son, concealed and preserved them. These new masters, on considering their common-weal, agreed to create a king out of their own body, and that he who should first see the rising sun should be the man. *Strato* was informed of this by his faithful servant, who going out at midnight with the others into an open field, while they looked for the rising sun in the east, he alone, by his masters advice, looked towards the west. This seemed madness to them; but while they were expecting to see the body of the sun in the east, he
 showed

shewed them its brightness shining on the tops of the edifices in the city. This seeming to them the effect of no servile genius, on their requiring the author, he confessed the whole proceeding with his master. The excellence of a free above a servile genius being then understood they pardoned *Strato* and his son, and thinking them reserved by some deity created *Strato* their king, from whom the kingdom passed to his son and posterity.

A.M. 3672. In process of time *Alexander* the Great waging war in the east, as the avenger of public security, having taken their city, in remembrance of the old slaughter, crucified all those who had survived the war, the women and children having been sent to *Carthage*, a colony of *Tyre*, saving only the race of *Strato*, to whom he restored the kingdom, giving ingenuous inhabitants to the island, that the servile race being extirpated a new one might be established in the city. This is *Justins* relation, which, more especially in respect of the numbers of the inhabitants slain, differs from that of others. *Arrian* supposeth that *Alexander* sold thirty thousand of them for slaves—In the second year of *Alexanders* reign, A. M. 3669, *Parmenio* his general had taken *Grinium* in lesser *Asia* by force, and sold all the townsmen for slaves. In the next year *Alexander* besieged, took, sacked, and razed the city of *Thebes*, the capital of *Bœotia*. Of the inhabitants ninety thousand were slain, and thirty thousand publicly sold for slaves. “ Among the other calamities
 “ that befel this miserable city, it happened that some *Tbracian* soldiers
 “ plundered and demolished the house of an illustrious matron named
 “ *Timoclea*, and their captain, after he had ravished her, asked her if
 “ she had any money concealed; she answered that she had, and bad
 “ him follow her into the garden, where she shewed him a well, into
 “ which she told him upon the taking of the city she had thrown what
 “ she had of most value. The *Tbracian* stooping down to view the
 “ place she came behind him, and pushed him into the well, and then
 “ threw great stones in upon him, til she had killed him. After which,
 “ when the soldiers led her away bound to *Alexander*, her mien and
 “ carriage shewed her to be a woman of a noble rank, and an elevated
 “ mind; for she did not betray the least sign of fear or astonishment,
 “ and when the king asked her who she was, *I am, said she, the sister of*
 “ *Theagines, who commanded in the battle of Charonea against your father*
 “ Philip,

“ Philip, and sell there for the liberty of Greece. Alexander was so prized at both her action and her speech, that he gave her and her children full liberty to go whither they pleased;” the horrid cruelties suffered by the *Thebans* under this military hero being exercised with intent to terrify all *Greece* into the obedience of a man who was ambitious of the character of being their arbiter, general, and defender against the *Persians*: however his great remorse is said to have abated his rigour towards others, and the sense of his guilt was so lasting and severe, that he imputed the murder of *Clitus*, which he committed in his wine, and the refusal of the *Macedonians*, to pass the *Ganges* (by which his glory was tarnished, and his enterprize left imperfect) to the wrath and vengeance of *Bacchus*, the protector of *Thebes*. Upon killing *Clitus* his indignation instantly cooled, and he came perfectly to himself; but on seeing all his friends in profound silence, as seized with horror, he plucked the spear out of the dead body, and would have thrust it into his own, if not prevented by his guards. All that night, and the day following, he spent in the bitterest grief, till being quite spent with weeping and lamenting he threw himself on the floor, where he lay speechless; but after receiving some comfort from *Aristander*, and *Callisthenes* *, his fellow pupil under *Aristotle*, *Anaxarchus*, the *Abderite*, as soon as he came in, cried out, *is this Alexander, whom the world looks upon with such admiration? Behold him extended on the ground, and weeping like an abject slave for fear of the laws and censures of men, to whom he himself ought to be a law, and the measure of equity, since he conquered for no other end but to make himself lord of all, and not to be a slave to a vile idle opinion.* Do not you know, continued he, addressing himself to Alexander, that *Jupiter* is represented sitting on his throne, with *Themis* [fas] on one side, and *Justice* † on the other, intimating thereby that let a sovereign prince do what he will all his actions are just and lawful. With these and the like arguments *Anaxarchus* indeed allayed the king's grief, but withal corrupted his manners, rendering him more dissolute

* He was hated by the Sophists and flatterers, being a man of great virtue and eloquence, who followed *Alexander* in order to get his country-men recalled from banishment, and his native city *Olynthus*, destroyed by *Philip*, rebuilt and repeopled. His success is uncertain; but in *Cicero's* time it was a flourishing city.

† *Justitia* and *Themis*, whose excellence this *Thracian* parasite, in a manner suitable to his vile office, so far debased, were by the ancient *Greeks* consecrated as divinities.

“ and violent than he was before ; nor did he fail by these means to in-
 “ sinuate himself into his favour :” and, notwithstanding his care to
 A.M. 3681. people *Tyre* with reputable citizens, in the year before his death, in
 the general assembly of all *Greece*, at the *Olympic* games, the officer
 presiding read openly his letter requiring the restoration of all the ban-
 ditti or outlaws, except murderers, to their homes and estates, against
 which the *Athenians* and *Aetolians* protested, and prepared for war.

The cruelties exercised by the *Lacedæmonians* upon the *Helotæ* have
 incurred the just censure of *Plato* and other worthy authors : they were
 so great that *Plutarch* observes, “ they seemed to have understood the
 “ difference of states very well who said that he who was free in *Sparta*
 “ was of all men the most free, and he that was a *slave* there was the
 “ greatest *slave* in the world. The magistrates dispatched from time to
 “ time some of the ablest young men into the country, where they dis-
 “ perfed themselves, being armed only with their daggers, and taking a
 “ little necessary provision with them. In the day time they hid them-
 “ selves in the thickets and clefts, but in the night they issued out into
 “ the highways, and killed all the *Helotæ* they could light upon : some-
 “ times they set upon them by day as they were at work in the fields,
 “ and murdered the ablest and stoutest of them.” And *Thucydides* in his
 history of the *Peloponnesian* war informs us that “ fearing the youth and
 “ multitude of their *Helotæ*, they caused proclamation to be made, that
 “ as many of them as claimed the estimation to have done the *Lacedæ-*
 “ *monians* best service in their wars should be made free, feeling them in
 “ this manner, and conceiving that as they should every one out of pride
 “ deem himself worthy to be first made free, so they would soonest also
 “ rebel against them : and when they had thus preferred about two thou-
 “ sand, which also with crowns on their heads went in procession about
 “ the temples as to receive their liberty, they not long after made them
 “ away, and no man knew how they perished.” And *Plutarch* from
Aristotle adds that the *Ephori*, as soon as they entered into their office
 used to declare war against them, that they “ might be massacred under
 “ a pretence of law. In other respects too, he saith, the *Spartans* dealt
 “ with them very hardly, for they often forced them to drink to ex-
 “ cess, and led them in that condition into their public halls, that their
 “ children might see what a contemptible vice drunkenness was.”

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There is no code of *Attic* laws in being; but Mr. *Petit* having with great diligence collected them, or rather the fragments of them, from the remains of antiquity, and digested and illustrated them in eight books, in the sixth title of the second book, treating of servants and freed-men, he observes, 1, that the rights of servants were much freer at *Athens* than at *Rome*, for which he cites *Plautus* and *Demosthenes*—He then says that the old *Athenians* did certainly with very good reason prefer a just and mild servitude—that servitude had its rise from those who being *sui juris*, yet thro' weakness of understanding incapable of taking care of themselves, came spontaneously under the protection of the more prudent, in exchange for their labours, which was the sole true and just servitude, as being from nature; that they who are servants by law, the captives in war, should be retained by liberality rather than fear, adding that injuries might provoke servants to make war upon their masters, as is mentioned by *Possidonius* to have sometimes happened. And the *Athenian* servants were so numerous that upon a *census* taken by *Demetrius Phalereus* there were in *Athens* 21000 citizens, 10000 strangers, and 400000 servants; therefore the *Athenians* treated their servants with humanity. Mr. *Petit*, following *Ctesicles* in *Atheneus*, supposeth this *census* was taken in the first year of the 110th Olympiad; but Mr. *Palmer* in a note hath shewn it to be highly probable it was in the fourth year of the 105th Olympiad, and how the error of *Ctesicles* arose. 3. If any person was led into servitude, or claimed, any one might defend him by this law, “ Be it lawful for whomsoever will to take into liberty, and
 “ become bail for, a person led into servitude, before the polemarch.
 “ 5. Let injured servants have a right to require sale to a mild master.
 “ 6. Be it lawful to servants to free themselves, upon paying down money to their master”—but the sum to be paid does not appear.

It sometimes happened that the servants who had performed some notable exploit in war were made free by the common-wealth. As to those who had routed the *Spartans* at *Arginusa*, *Aristophanes* complains that they had not only their liberty, but the freedom of the city given them. Of those who had fought at *Cheronea* against *Philip* of *Macedon* *D. Cbrysostom* saith the *Athenians* decreed they should be free.

The *Romans*, saith *Dionysius of Halicarnassus* *, in process of time contrived to raise themselves from the smallest nation to the greatest, and from
 “ the most obscure to the most illustrious, by their humane reception of
 “ those who were destitute of a settlement ; by a communication of the
 “ rights of citizens to all who, after a brave resistance, had been conquered by them ; by extending those rights to such as had been manumised among them ; and by disdaining no condition of men from
 “ whom the common-wealth might reap an advantage : but, above all,
 “ by the constitution of their government, which they formed out of
 “ the various misfortunes that befel them, extracting always something
 “ useful from every occurrence.” And this author afterwards observes that “ the harmony which owed its birth to the institutions of *Romulus*
 “ was so firmly established among the *Romans*, that tho’, as it often happens in all cities both great and small, many great political contests
 “ arose between the people and their magistrates, they never within the
 “ course of six hundred and twenty years proceeded to bloodshed and
 “ mutual slaughter ; but, by persuading and informing one another, by
 “ submitting in some things, and receiving a voluntary submission in
 “ others, they put an end to their disputes in such a manner as became
 “ fellow citizens. But from the time that *Tib. Gracchus*, while tribune
 “ of the people, dissolved the harmony of the government they had
 “ been perpetually destroying and banishing one another, and refraining
 “ from no excess to gain the superiority.” And speaking of the institutions of *Romulus*, he highly extols the third, “ which the *Greeks*,” he saith “ of all others, ought to have practiced, it being, in his opinion,
 “ the best of all institutions, as it laid the most solid foundation for the

* A Greek city and colony in *Caria*, part of lesser *Asia*. This accomplished historian, according to his own account, came into *Italy* immediately after *Augustus Caesar* had put an end to the civil war, and having for the space of twenty two years lived at *Rome*, learned the *Roman* language, and acquainted himself with their writings, he employed that time in preparing materials for his history of the *Roman* antiquities from the most ancient relations to the beginning of the first *Punic* war. Some things he received from men of the greatest consideration among them for learning, and others he gathered from histories written by the most approved *Roman* authors, such as *Porcius Cato*, *Fab. Maximus*, *Valer. Antias*, *Licin. Macer*, the *Aelii*, *Gellii* and *Calpurnii*, and several others of good note. This history was written in twenty books, and the whole, with the authors abridgment in five books, were extant in the ninth century, as we learn from *Photius* ; but the first eleven are all that now remain.

“ liberty

“ liberty of the *Romans*, and not a little contributed to raise them to
 “ the empire they had acquired. It was this, not to put to death, or
 “ make *slaves* of the men taken in the conquered cities, or lay waste
 “ their territories; but to send inhabitants thither to possess some part
 “ of the country by lot, and to make these conquered cities *Roman*
 “ colonies; and even to communicate to some of them the privileges of
 “ *Roman* citizens.” This lawgiver, he adds, “ being sensible that the
 “ means by which a whole people (the greatest part of whom are hard
 “ to govern) can be induced to embrace a life of sobriety, to prefer jus-
 “ tice to gain, to cultivate a perseverance in labour, and to look upon
 “ nothing more valuable than virtue, is not instruction, but the habitual
 “ practice of such employments as lead to each virtue; and that those
 “ who practice them thro’ necessity rather than choice, as soon as they
 “ are free from that restraint, return to their natural disposition: for
 “ these reasons he appointed *slaves* and foreigners to exercise those trades
 “ that are sedentary and mechanic. — These trades were for a long
 “ time held ignominious by the *Romans*, and exercised by none of them.
 “ The only employments he left to freemen were these two, agriculture
 “ and warfare.”

The ancient table of the laws of *Romulus* *, published at *Lyons* in
 1550, by *Baldwin*, a celebrated lawyer, who received it from *Marlianus*,
 a most learned man, and deeply skilled in *Roman* antiquities, contains
 the following, being the 17th. PARENTUM LIBEROS OMNE JUS ESTO
 RELEGANDI, VENDENDI, & OCCIDENDI. *Dionysius*, after treating of
 the good laws of *Romulus*, whereby he rendered women more observant
 to their husbands, saith, “ those he established to inspire children with
 “ reverence and piety to their fathers, and to oblige them to honour
 “ and obey them in all things, both in their words and actions, are stil
 “ more august, and of greater dignity, and vastly superiour to our laws;
 “ for the *Greek* legislators limited a very short time for the son to be un-
 “ der the government of his father; some til the expiration of the third
 “ year after he was arrived to manhood; others as long as he continued
 “ unmarried; and some til their names were registered in the colleges
 “ of the magistrates; as they had learned from the laws of *Solon*, *Pit-*

* It seems very clear that these laws are not expressed in the language used in the time of
Romulus.

" *tacus*, and *Charondas*, in which there is acknowledged to be great wis-
 " dom. The punishments also they ordered for disobedience in chil-
 " dren were not grievous, allowing their fathers to turn them out of
 " doors, and to disinherit them, and nothing further; whereas gentle
 " punishments are not sufficient to restrain the folly and insolence of
 " youth, or to restore those who despise their duty to a sense of it, for
 " which reason among the *Greeks* great indecencies are committed by
 " children against their parents. But the lawgiver of the *Romans* gave
 " full power, as one may say, to the father over his son even during
 " his whole life; whether he thought proper to expel him his house,
 " to whip him, to load him with chains, and in that condition to em-
 " ploy him in agriculture, or to put him to death; though his son
 " were actually in the administration of the public affairs, though in-
 " vested with the greatest offices of the state, and distinguished by his
 " zeal for the commonwealth. In virtue of this law, men of distinction,
 " while they were haranguing from the *rostra* in opposition to the se-
 " nate, and in favour of the people; and on that account gaining great
 " popularity, have been pulled down from thence, and carried away by
 " their fathers, to undergo such punishment as they thought fit; and
 " while they were leading away thro' the *forum*, none present, neither
 " consul, tribune, nor the people themselves, who were flattered by
 " them, and thought all power inferior to their own, could rescue them.
 " However the power given to fathers by the *Roman* lawgiver did not
 " even stop here; but he allowed the father also to sell his son, with-
 " out regarding the imputation of cruelty, and of a severity incon-
 " sistent with natural affection, which this allowance might be liable
 " to, and what any one who has been educated in the loose manners
 " of the *Greeks* may wonder at above all things, and look upon as harsh
 " and tyrannical) he even gave leave to the father to make an advantage
 " of selling his son as far as three times, giving by this means a greater
 " power to the father over his son than to the master over his *slave*; for
 " a *slave* who has once been sold, and afterwards obtains his liberty, is
 " his own master ever after: but a son, when sold by his father, if he
 " should become free, returned to his fathers power; and, if he was a
 " second time sold, and a second time freed, he was stil, as at first, his
 " fathers *slave*; but after the third sale he was discharged from his fa-
 " ther.

“ ther. This law the kings observed in the begining, looking upon
 “ it as the best of all laws.”

Of the twelve tables of laws prepared by the Decemvirs, of which the ten first received the sanction of senate and people in the year of Rome 302, whose fragments have been collected with great care by the learned, the fourth contains the two following.

- I. Let a father have a power of life and death over his legitimate children, and let him sell them when he pleases.
- II. But if a father has sold his son three times, let the son then be out of his fathers power.

Numa Pompilius, the successor of Romulus, by law provided that “ if the father gave his son leave to marry a woman, who by law was to partake of his sacrifices and fortunes, he should no longer have the power of selling his son.” The despotic power of the father over his children, granted by the law of Romulus, and confirmed by the law of the twelve tables, seldom prevailed over natural affection, and in time grew so far into disuse, that Brutus seems to have had no sense of it, when, in his letter to Atticus, he said, *dominum ne parentem quidem majores nostri voluerunt esse*. And it is certain that Trajan would have a father compeled to emancipate a son whom contrary to piety he evil entreated; and there is extant a rescript of Dioclesian and Maximinian, prohibiting children to be transfered to others by their parents, either under title of sale or donation, or by right of pledge, or by any other way, or under pretence of ignorance in the receiver. The excellent institution of Romulus made in favour of the lives and liberties of the men taken in the conquered cities, and for advancing the Roman empire in subsequent times, received various intermissions. Tarquinius Priscus after the surrender of Collatia led his army against Corniculum, which was also a city of the Latines; and having ravaged the country with great security, none appearing to defend it, he marched to the city itself, inviting the inhabitants to enter into a league of friendship with him: but they, relying on the strength of their walls, and expecting succours from many of their neighbours, refused all conditions of peace; upon which he invested the city on all sides, and assaulted the walls. The Corniculani made a long and a brave resistance, wounding many of the besiegers; but, being worn out with continual labour,

" labour, and no longer unanimous, for some were for delivering up
 " the town, and others for holding out to the last, their distress was
 " increased by this division, and the town taken by storm. The bravest
 " of the people were slain fighting, while the enemy were taking the
 " town; and the rest, who owed their preservation to their cowardice,
 " were sold for *slaves*, together with their wives and children, and
 " their city was plundered by the conquerors, and burned. However
 " this prince did not persevere in the errors of severity and impolicy,
 " but treated the other *Latine* cities with great clemency. The most
 " noble and memorable of all the captives *enslaved* was *Ocrisia*, a lady
 " far excelling all those of her sex in *Corniculum* both in beauty and
 " modesty, whose husband *Tullius*, who was of the royal family, was
 " slain fighting for his country. "*Ocrisia*, then with child, was se-
 " lected from the spoils, and given to *Tarquinius*, who presented her to
 " his wife *Tanaquil*: she, being informed of every thing that related
 " to this woman, manumitted her soon after, and distinguished her above
 " all other women by the marks of tenderness and regard she continued
 " to bestow upon her. While *Ocrisia* was yet a *slave* she was delivered
 " of a boy, to whom when he was brought up his mother gave the
 " name of *Tullius*, from his father, as his proper and family name;
 " and also the name of *Servius*, as a common and appellative name,
 " from her own condition, because she was a *slave* when she was deliver-
 " ed of him." This youth being favoured with good natural parts,
 education, and examples, became in his riper years well accomplished
 in war and peace; by his valour and good conduct he performed many
 great exploits, and was understood to have the most laudable sentiments
 of civil government; for these reasons the *Romans* translated him by
 their votes from a *plebeian* to the rank of a *patrician*, an honour they
 had before conferred on *Tarquinius*, and *Numa Pompilius*. The king
 gave him one of his daughters in marriage, and when any occasion re-
 quired the delegation of another, committed the care of public affairs
 to him, who always discharged his trust with ability, fidelity and jus-
 tice; and when the sons of *Ancus Marcius*, the predecessor of *Tarquinius*,
 to obtain the sovereignty, most basely assassinated him, when sitting in
 judgment on a feigned cause devised for the ruffians hired for this pur-
 pose, *Tanaquil*, his relief, in order to save herself and her two grandsons,
 whose

whose father died young, with great dexterity concealing the king's death, the night being passed, the next day the people flocking in great numbers to the palace, she acquainted them who the persons were that formed the design of murdering the king, and produced the assassins employed by them in chains. The people lamenting their misfortune, and exclaiming against the assassins, she told them they had failed in their design of killing *Tarquinius*. This being received with general joy she presented *Tullius*, as the person appointed by the king to conduct all his affairs both public and private until his recovery. Upon this the people departed with great joy, and continued a long time persuaded that the king would recover. *Tullius* soon after, by proclamation in the *forum*, called the *Marcii* to appear and take their trial. On their default he sentenced them to perpetual banishment, confiscated their estates, and with less danger held the sovereignty of *Tarquinius*. When he thought his possession of the kingdom secure he celebrated with great pomp the funeral of *Tarquinius*, as if lately dead, and from that time as guardian of the royal children assumed the public administration, having thus without lawful authority obtained a kind of regal power, which so far excited the indignation and resentment of the *patricians*, that the most powerful of them resolved to deprive him of it; but he defeated all their designs by the use of the most efficacious means that policy could dictate for securing the affections of the people, attached to him by acts of beneficence, and his public services, his fidelity, moderation, and humanity; but in his sharp conflicts with the nobles, his present safety and future advancement were most promoted by this, *all loved and admired him for making the laws and justice the rules of his government*; so that when all the inhabitants of the city and country were assembled to elect the king, on his taking the votes of the *curia* singly, they all chose him their king, from whom he accepted the sovereignty without the usual concurrence of the nobles, who refused to confirm the election.

Tullius having thus obtained the sovereignty established many civil institutions in particular the *comitia centuriata*, or the arrangement of the people by centuries, for the purpose of giving their votes, in the exercise of their authorities, in their public assemblies, and for other public uses. The departure from this salutary regimen, which gave the chief power to the substantial citizens, in the case of *Coriolanus*, thro' the influence of the tribunes, brought the *Romans* into great distress, disgrace and

danger. Afterwards, by the fourth law, contained in the ninth of the twelve tables, entitled, OF THE COMMON RIGHTS OF THE PEOPLE, it was thus provided, *Let all causes relating to the life, liberty, or rights of a Roman citizen be tried only in comitia by centuries.*

“ The words of the law were these. DE CAPITIS CIVIS ROMANI, NISI PER MAXIMUM COMITIATUM NE FERUNTO. Cicero made use of this law to disannul the proceedings of Clodius, who had conspired his destruction, By the words *de capite civis Romani* were understood not the life only, but the liberty and rights of a Roman citizen. In consequence of this law it was criminal to kill any person before sentence of death had been pronounced against him.” Tullius after having established a religious method of ascertaining the annual number of the Roman people, men, women and children, and of those who were arrived at the age of military service, that is, seventeen years, ordered all the Romans to register their names, and give in a valuation of their possessions, and at the same time to take the oath appointed by law, that they had given in a true, and in all respects a just valuation. They were also to set down the names of their parents, with their own age, and the names of their wives and children ; and every man was to declare in what part of the city, or in what village in the country he lived : and the punishment he ordained against those who failed to register all these particulars was that their possessions should be forfeited, and themselves whipped, and sold for slaves ; which law continued long in force among the Romans.” Cicero, in his oration for A. Cæcina, saith, “ When the people sell a man who either gives no account of his estate, or gives a false one, they judge that as he who is really a slave is excused from the cess, so he who would not submit to it when he was free renounces his own liberty.” “ This king also took no small care to encrease the number of the citizens ; and, to that end, discovered a method unobserved by all the kings before him ; for they by receiving foreigners, and communicating to them the rights of citizens, without rejecting any man, of what nation or condition soever, had indeed rendered the city populous ; but Tullius communicated those rights even to manumitted slaves, unless they chose to return to their own country : for he ordered these also to register their fortunes

“ fortunes together with all the freemen, and distributed them among
 “ the four city tribes, in which the body of freed men, how numerous
 “ soever, continue to be ranked: he moreover admitted them to every
 “ other privilege which the other Plebeians enjoy.”

“ The *patricians* being uneasy at this, and hardly submitting to it, he
 “ assembled the people, and told them that in the first place he won-
 “ dered at those who were displeased with this institution, for imagin-
 “ ing that free men were distinguished from *slaves* by their nature, and
 “ not by their condition; and secondly for not making the manners ra-
 “ ther than the fortune of men the measure of their merit; particu-
 “ larly when they saw how unstable a thing fortune is, and how sub-
 “ ject to sudden changes, and that it is not easy to say how long even
 “ the happiest man will enjoy a continuance of her favours. He de-
 “ fired them also to consider how many people, both barbarians and
 “ *Greeks*, from being *slaves* had become free; and how many from be-
 “ ing free had become *slaves*.” He observed that after granting liberty
 to their deserving *slaves* they ought not to envy them the rights of citi-
 zens, and advised them not to make bad men free, or despise the good
 because they were foreigners; that it was absurd to communicate the
 right of citizens to foreigners without distinction, and to withhold this
 right from their own freed men; that it was obvious the enjoyment of
 it would excite great care in the masters not easily to manumit their
slaves, for fear of granting the greatest of human blessings without dis-
 tinction; with the great assiduity of the *slaves* to yield their best service
 to their masters, in order to receive liberty and citizenship from their
 bounty. He concluded with observing, that “ to a city which aimed
 “ at sovereignty and grandeur no one point was so necessary as popu-
 “ lousness, that she might find in her own citizens a constant supply
 “ for every war; for which reason, he said, the former kings had com-
 “ municated the rights of citizens to all foreigners, and that if they
 “ enacted this law also great numbers of youth, sprung from those who
 “ were manumited, would be taken into the service, by which means
 “ the city would never want national forces, but would have armies
 “ continually supplied with numbers sufficient to make war even against
 “ all mankind, if necessary;” adding arguments to convince the *patri-*
cians that this institution would be of special advantage to them, who
 were

were by these reasons induced to admit this custom into the common wealth; and to this day it is esteemed one of the sacred and immovable laws, and observed as such by the *Romans*.

Dionysius on coming to this part of the *Roman* history gives this account of the customs which at that time prevailed among them with regard to *slaves*, "to the intent", he saith, "that no one may accuse either the king who first undertook to make freed men citizens, or the *Romans* who received that law, for having prostituted an honourable distinction. The *Romans* acquired their *slaves* by the justest means; for they either purchased them of the public at an open sale, as part of the spoils, or the general permitted his men to keep the prisoners they had taken, together with the rest of the booty; or else they acquired their *slaves* by buying them of those who, by the means I have mentioned, had obtained the possession of them; so that neither *Tullius* who established this custom, nor those who received and observed it, thought they did a thing in itself dishonourable, or detrimental to the public, if those who had lost both their country and their liberty by the fate of war, and behaved themselves well to such as had first *enslaved* them, or to such as had purchased them from the former, had both those advantages restored to them by their masters. Some of these *slaves* obtained their liberty in a gratuitous manner, as a reward of their merit; and this was the most honourable method of being discharged from their masters; others, tho' fewer, paid a ransom, raised by lawful and honest labour: but these things are now changed; for all affairs are in so great a confusion, and the privileges of the city are so much debased and sullied, that some who have raised a fortune by robbery, house-breaking, prostitution, and all other wicked means, purchase their liberty with the money so acquired, and presently become *Romans*: others who have been privy to, and accomplices with, their masters in poisonings, murders, and in crimes committed against the gods, or the public, receive from them their liberty as a reward for these services. Some are made free with this view, that after they have received the monthly allowance of corn given by the public, or some other gratification distributed by the men in power among the poorer sort, they may bring it to those who granted them their liberty; and others owe their liberty

" to

“ to the levity and vanity of their masters. I myself have known some
 “ who have ordered all their *slaves* to be made free after their death, with
 “ a design of being called good men when they were dead, and that
 “ many people might attend their funerals with caps upon their heads ;
 “ in which processions some malefactors have been seen (as many who
 “ knew it would say publicly) just come out of jail, who had for their
 “ crimes deserved ten thousand deaths. Upon these occasions, however,
 “ the greatest part of the citizens are grieved to see the badges of li-
 “ berty thus defiled, and condemn the custom, looking upon it as un-
 “ becoming a city which is the sovereign of all others, and thinks her-
 “ self worthy of being mistress of the world, to adopt such citizens.
 “ One might, with reason, condemn many other customs also, which
 “ were wisely instituted by the ancestors of this people, but are now
 “ shamefully abused by their posterity.”

By the last law in the sixth of the twelve tables it was provided that,
In litigated cases the presumption shall always be on the side of the possessor ;
and in disputes about liberty or slavery the presumption shall always be on the side
of liberty. In Latin thus. SI QUI IN JURE MANU CONSERUNT, UTRIS-
QUE SUPERSTITIIBUS PRÆSENTIBUS, SECUNDUM EUM QUI POSSIDET ;
AST SI QUI QUEM LIBERALI CAUSA MANU ASSE RAT, SECUNDUM
LIBERTATEM VINDICIAS DATO. “ By this law it appears that the
 “ presumption was always in favour of the possessor ; but this was not
 “ the case of a *slave* who said he was free, but was reclaimed by his
 “ master : the magistrate then always presumed in favour of the *slave*,
 “ til it was demonstrated that he had always continued in a state of
 “ *slavery*. The words *si qui quem liberali causa asserat*, are as much as to
 “ say, *si quis aliquem in libertatem adserat.*”

Plutarch informs us that in the early times of the *Romans* “ they
 “ treated their servants with much humanity, because they then worked
 “ and laboured themselves, and lived together among them, which pro-
 “ duced a great degree of kindness and familiarity ; and it was one of
 “ the greatest penances for a servant who had committed a fault to take
 “ up that piece of wood upon his shoulders wherewith they supported
 “ the thill of a waggon, and carry it round about thro’ the neighbour-
 “ hood ; and he that had once undergone the shame of this, and was
 “ seen by those of the household, and other inhabitants of the place car-

“ rying that infamous burden, had no longer any trust or credit among them, but was stiled *furcifer*, by way of reproach.”

The state of the *Roman slaves* was not ascertained by the laws of *Romulus*, or of the twelve tables : the *Spartans* governed by customs ; the *Athenians* by written laws, and the *Romans* by laws written and unwritten. What was the precise condition of their *slaves* during the reign of their kings, and the state of the commonwealth, and in what period that humane and kind usage mentioned by *Plutarch* which they received from their masters was exchanged for rigorous and inhuman treatment, is uncertain : this change, I am inclined to think, was chiefly owing to the corruption and degeneracy of the *Romans*, which at length, with the base ambition of their leaders, who without respect to gods or men plunged the swords of their soldiers in the bodies of the citizens, whom it was their duty to protect ; and under the domination of *Marius*, *Sylla*, and the triumvirs *Octavius*, *Anthony* and *Lepidus*, caused the most horrid and innumerable cruelties, and concluded in the ruin of this once glorious commonwealth, otherwise invincible. The *Romans* excluded their *slaves* from serving in their armies before they sustained so great loss in the battle of *Cannæ*, wherein, according to *Polybius*, of six thousand horse only seventy escaped with the consul *Terrentius Varro*, whose ignorance, with its usual companion obstinacy, had caused the defeat ; and of the auxiliary horse three hundred escaped. Of the infantry, besides the ten thousand prisoners who surrendered without resistance, and the three thousand who sought their safety by flight, seventy thousand foot were slain on the field of battle, who died fighting bravely under the disadvantage of ground. The *Romans*, who, instead of desponding, like those that do nothing in danger, but on success, obtained by others, assume every thing, were never so great as in time of adversity, upon this great loss, among other measures, selected out of the numerous *slaves* in *Rome* eight thousand of the ablest young men to serve in their armies, purchased of their masters at the public expense, and encouraged with the hopes of liberty upon their good behaviour. They were not obliged to enlist without their consent ; but every one, upon putting the question, answered, *volo* ; whence they were called *volones*, to avoid the opprobrious name of *slaves*.

Although

Although the *Romans* would not enlist these *slaves* without their consent, it is remarkable that the citizens who declined the duty of military service were made *slaves*. I know of no law extant for this; but it appears from the following passage in *Cicero's* oration for *A. Cæcina*. *Jam populus cum eum vendidit qui miles factus est non adimit ei libertatem, sed judicat non esse eum liberum qui ut liber sit adire periculum noluit.*

The public mischiefs and dangers attendant on numerous *slaves* may in part appear from the conspiracies and proceedings of the *Roman slaves*. In the year of *Rome* 246, that is, in the age by some called by way of eminence the age of *Roman* probity, constancy and intrepidity, *Porfena*, king of the *Clusini*, having espoused the *Tarquinian* cause, and closely besieged and distressed the city various ways, many *slaves* leaving their masters deserted daily. In the year 252 a number of *slaves* agreed together to possess themselves of the places of strength, and to set fire to many parts of the city; but information being given by the accomplices the consuls immediately ordered the gates to be shut, and all the places of strength to be possessed by the knights; and some of the conspirators being soon taken in their houses, and others brought up from the country, those whom the informers declared to have been concerned in the conspiracy were all torn with whips and tortures, and then crucified. In the year 292 *Herdonius*, a *Sabine*, invited by the civil dissensions at *Rome*, to take it by surprize, came down the *Tyber* with four thousand men, landed them about midnight within a *stadium*, or furlong, of the capitol, entered the city, and seized the fortress and the citadel, before the *Romans* were prepared for defence, or well understood their danger. His dependance for success was placed in part on the desertion of the *slaves*, who regardless of his invitation did not come over to him. In the year 334 numberless *slaves* conspired to set different parts of the city on fire, to arm themselves and seize the citadel and capitol while the citizens were employed in saving themselves, their families and effects; but two of the conspirators having discovered the plot the rest were secured, and put to death. In the year 494 three thousand *slaves* conspired to plunder and burn the city. They were joined by four thousand *Samnites*, who came to serve in the galleys, their crews being then freemen; but having chosen *Errius Potilius*, commander of the auxiliaries for their leader, who seemed to favour the plot, pursuant to his advice, the *Sam-*
nites.

nites came with *Potilius* into the forum, when the senate was sitting, and loudly complained of a feigned grievance in their allowance of corn, with intent to raise a clamour, and afterwards proceed to arms; but *Potilius*, as chief of the mutineers, being called into the senate, instead of explaining the reasons of their complaints, declared the whole scheme of the conspirators; the senate commended him, and appeased the guilty *Samnites* with good words, who returned well satisfied with having, as they imagined, appeared formidable to the senate; but in the following night all the guilty *slaves* whose names were known, were put in irons by their masters, and all the *Samnites* left in *Rome* imprisoned. In the year 536 twenty five *slaves* were crucified for having formed a conspiracy in the field of *Mars*; the discoverer had his liberty, and 20000 asses of brass given him, of the value of 64 *l.* 11 *s.* 8 *d.* sterling. This brief relation is taken from *Livy*, the sole author, I believe, that mentions this conspiracy.

In the year 512 the *Romans* completed their conquest of *Sicily*, afterwards esteemed the nursery of *Italy*, and the support of *Rome* in time of want. The lands in this fruitful island being much coveted the rich inhabitants, and the *Roman* knights, the managers of all the public revenues, possessed the best estates, or had them cultivated for public use. These islanders and *Romans* found their account in employing *slaves* rather than hired servants in the culture of the lands, and so far multiplied these people, taken in war, or brought by force from *Asia*, that they became almost as numerous as the *Sicilians* themselves; and tho' they rigorously exacted hard labours from these unhappy wretches they did not allow them necessary cloaths and provisions; so that necessity taught them to live by rapine, which filled *Sicily* with robberies and murders; for the purpose of the annual *praeter* sent from *Rome* to govern was defeated thro' their fear of the chief authors of the grievance the knights, a formidable order of men at *Rome*. Thus the evil was encreased by impunity til the authors felt the severe effects of it. These *slaves* often meeting together complained bitterly of their miseries, and even of those violences which the severity of their masters enforced them to commit. Thus a general disposition to rise up against them prevailed, which the cruelties of *Damophilus*, a burgher of the city of *Enna*, in the center of the island, and of his wife *Megallis*, brought into action. He was
richer

richer than any *Sicilian* lord, intent on improving his vast estates, and delighted in pomp and luxury. His house was a palace ; abroad he appeared mounted on a chariot, attended by many parasites and young *slaves*, the instruments of his luxury and pleasures. These were the only *slaves* whom he regarded, of the rest, who were very numerous, those in the country were branded in the forehead, emprisoned every night, and led out early in the morning to hard labour, tho' ill fed, and ill clad. *Megallis* was likewise a great manager, and having the direction of the female *slaves*, in point of labour she treated them with insupportable rigour, and often had them severely lashed without cause ; they complained to their husbands, who formed a plot to destroy the authors of their misery. In order to their success they consulted *Eunus*, a *Syrian*, and *slave* of *Antigines*, a *Sicilian* lord. This fellow being crafty, under various pretenses of divination, became the oracle of all the deluded *slaves*. He foreseeing their design, in a prophetic tone pronounced their enterprize agreeable to the gods, and assured them of success, if not delayed, offering to become their leader. This being agreed to he soon became captain of four hundred *slaves*, raised from the estate of *Damophilus*, who being armed with such weapons as they could collect entered *Enna* by surprise, exercised the most horrid cruelties upon the inhabitants, being joined by all the *slaves* in the city. *Damophilus* with his wife being seized when taking the air near the city by a party sent out for that purpose, were barbarously treated. *Eunus* now assuming the government assembled the *slaves* in the public theatre, and *Damophilus* and *Megallis* being brought before him he began their trial in form ; some were their accusers, others witnesses, and the multitude their judges ; but the trial was suddenly interrupted by the violence of two of the slaves of *Damophilus*, who in resentment of their former sufferings, to the surprise of the whole assembly, assaulted, and instantly killed him : hereupon all farther proceedings were postponed, and *Megallis* reserved for other punishment. *Eunus* was displeased at the killing of *Damophilus*, and to complete his command, by his intrigues, counterfeit divinations, and inspirations, prevailed so far as to be proclaimed king, altho' in military experience, valour, or any regal quality he did not surpass his comrades. His first orders were cruel, though his council thought them necessary. All the inhabitants who had survived the

eruption being brought into the theatre it was adjudged that no lasting concord could be established with them; wherefore they were condemned to die, and all suffered upon the spot, excepting a few who had formerly been kind to *Eunus* when a *slave*. He then sentenced *Megallis* to be delivered up to the *slaves* that had suffered under her cruelty, who in return having made her suffer all the torments they could devise, cast her down a precipice. Her only child, a young virgin, having been always solicitous to moderate her mothers severity, and to comfort the afflicted, was constantly treated with great decency and regard til delivered to her relations at *Catana*.

Eunus took the name of *Antiochus*, gave the title of queen to his wife, who had been a *slave*, provided himself with several companies of guards out of the *Asiatic slaves*, composed his council of men whom he thought prudent, well skilled in business, and submissive to his will, settled a form of government, gave the command of his troops to an *Achaean* by birth, who before his *slavery* had been a soldier, and whose military accomplishments merited a more honourable command. Thus the new king having grown into great esteem among the *slaves* in the island in less than three days, six thousand, armed in the best manner in their power, coming from different parts joined his forces. This revolt commenced in the year 615, and after cruelly ravaging the interior parts of the island, his success increasing his force, in the years 616, 617, and 618 he became victorious over three *Roman praetors*. Upon this farther success, besides other additional forces, one *Cleon* a *slave*, who had in like manner collected a body of rebellious *slaves*, attacked and pillaged the city of *Agrigentum*, and laid waste its territory, joined him with five thousand men raised in two months: so that when the succeeding *praetor* came *Eunus* had seventy thousand *slaves* in arms, and the whole number of armed rebels was computed at two hundred thousand, and the *praetors* army consisting only of eight thousand, it was routed by *Eunus*.

The negligence of the *Roman* republic, unknown in former times, having suffered so great encrease of this evil that it became formidable she now opened her eyes, and ordered *G. Fulvius*, the colleague of *Scipio Africanus*, to take care of *Sicily*. The example of the *Sicilian slaves* had so far infected others in all the countries of *Italy* and the *Levant*, that

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at *Rome* 150 were condemned to die, at *Sinuessa* about 4000 were put to death : at *Minturnæ* 450 were crucified, 1000 who worked in the mines near *Athens* were sentenced to die. *Macedon* suffered incredible devastation by some companies of them, and *Delos* was distressed by a number, til their masters prevailed over them. *Fulvius* to redress this evil in its source came into *Sicily* with a consular army ; but according to the imperfect remains of history, he seems to have employed his consulship in strengthening the cities held by the *Romans*, in disposing the *Sicilians* to arm in their own defence, and preparing for the conquest of his successors *L. Calpurnius Piso*, in the year 620, and *P. Rupilius* in the year 621. They were accomplished generals, and so eminent for their public virtues that they were wholly averse to that degeneracy which was now preparing the utter ruin of the republic. They restored discipline to the legions, and by their continued wisdom and fortitude prevailed over the *slaves* in every engagement, took the city of *Enna*, with other strong holds, and all the places they held. *Rupilius* took *Eunus* captive, and reserved him to be shewn to the *Romans*, whom he had so much dismayed ; but being enervated by pleasures during his six years reign he languished and died under the hardships of imprisonment. *Rupilius* being continued in the command of *Sicily* as proconsul, at the head of ten commissioners sent him from *Rome*, reduced the whole island into order, and drew up a new code of laws, which made the people very happy, and were always observed.—During the war with the *slaves* it is to be remarked, that the inhabitants of the city of *Messana* having always treated their *slaves* with humanity, they continued so faithful to their masters that no one in the city, or its neighbourhood, ever deserted.

In the year 649 *Vettius*, a prodigal young *Roman* knight of *Capua*, having bought for seven *Attic* talents upon credit a beautiful female *slave* for his pleasure, being unable to pay for her with ease prevailed on four hundred *Asiatics* enslaved by force to rise against their masters under his command. He then murdered his creditors, ravaged the neighbouring villages and farms, and freeing the *slaves* they joined him. Having thus collected seven hundred he posted himself in a place difficult of access, and made it an *asylum* for all fugitive *slaves*. The senate dispatched in all haste *Lucius Lucullus* the *prætor* of *Rome* to purge *Campania* of these robbers.

robbers. He took with him only six hundred disciplined men ; but gathered upon his march four thousand more, and three hundred horse. *Vettius* fortified his post, and was proclaimed king by his adherents, now amounting to three thousand five hundred. Upon the *prætors* first attack *Vettius* fought desperately, and had the advantage. The *prætor* then, distrusting his force, had recourse to artifice, and prevailed on *Apollonius*, the general of *Vettius*, to sell his master, who to avoid a public execution killed himself.

In the same year another grievous war with the *slaves* broke out in *Sicily*. The great injustice and oppressions of the publicans who farmed the revenues of the public lands gave rise to it. *Licinius Nerva*, the Roman *prætor* and governour, instead of redressing the evil, being corrupted by the publicans, who had by force carried many thousands from their own country, and *enslaved* them, augmented it, so that, with the natural aversion to *slavery*, two numerous bodies of *slaves* in different parts of the island assembled. *Salvius* became king of the first, and *Athenio* of the second. *Salvius* with twenty thousand foot and two thousand horse besieged *Morgantia*. While he lay before it the *prætor* came with ten thousand men by night, and surprized them, who dispersed ; but soon rallying consulted how to be revenged on the *prætor*, whose army thinking themselves victorious were surrounded by the *slaves* : a sharp engagement ensued, wherein *Salvius* by policy rather than force obtained the victory, and four thousand *Romans* became prisoners of war, *Salvius* having in the action proclaimed safety to all who should lay down their arms. Then renewing the siege of *Morgantia* with great vigour, the *slaves* in the city, encouraged by the promise of liberty, defended it so bravely that he was forced to raise the siege ; but the *prætor* annulling the promise of the masters these *slaves* deserted to *Salvius*. The two succeeding *prætors* *L. Licinius Lucullus*, and *C. Servilius*, being unequal to their charge, the first avaricious and indolent, and his successor more contemptible, *Salvius* and *Athenio*, having on the arrival of *Lucullus* united the slaves under the command of *Athenio*, who was very brave, after the loss of 2000 in the first battle, *Salvius* soon after dying, prevailed over them ; when *Rome* seeing the necessity of a consular army appointed one for this service, under the command of *Manlius Aquilius*, colleague of *Marius*. He made ample provision for his legions, while the

the *slaves*, thro' his prudent conduct, and their own improvidence, were reduced to great want of necessaries in this fertile country; and being continued in his command as *pro-consul*, in the next year he brought the *slaves* thus weakened to a battle, which both parties maintained with equal valour, til at length the two generals met, and the victory was determined by their single combat, wherein *Aquilius* having received a wound on his head was so exasperated, that with one furious blow he laid his adversary dead on the sand. Upon this the flight and a terrible slaughter of the *slaves* ensued; but about ten thousand rallying took refuge in their camp, where being surrounded by the *Romans*, and suffering by famine, they chose rather to destroy and devour one another than surrender, except a thousand, who capitulated to save their lives, and they being carried to *Rome*, and desiring rather to fall by each others hands than to appear as gladiators in the religious ceremonies, *Rome* consented, and they all killed one another before the altars, til their chief *Satyrus* only surviving he fell upon his own sword the last victim of this war.

In the year 680 *Lentulus Batianus*, a burgher of *Capua*, keeping, like others, a profitable school of gladiators, wherein he instructed his *slaves*, purchased at great expence for shows in the amphitheatre, and at the funerals of the great, two hundred of them combined to escape, seventy eight, of whom *Spartacus* a *Thracian* was leader, the rest being chiefly *Gauls*, brake their chains, and got out of the city, armed with spits and cleavers. The *Capuans* directly sent out some of their militia to recover them; but the gladiators beat them, seized their arms, and retired to mount *Vesuvius*. *Rome* apprehending this mountain might become an *asylum* for all fugitive *slaves* and malecontents, to prevent it, dispatched *Appius Claudius Pulcher* the *prætor*, with three thousand regular troops. He marched and secured the sole path leading to its summit: but the gladiators, encreased in their number, with great industry got down into the plain, seized and plundered the *prætors* ill guarded camp, and made him, with all his forces, fly before them. This success giving *Spartacus* great credit, the *slaves* and shepherds in the adjacent parts joined him, so that he soon had ten thousand men under his command. *Rome* being farther alarmed sent the *prætor* *Vatinius* with a little army against him, whose lieutenant general *Furius* he routed; the cities of *Cora*, *Nuceria* and *Nola* then fell a prey to the *slaves*, whose plunder and horrid outrages

displeased *Spartacus*. After establishing some order he marched into *Lucania*, where he surprized and killed *Cossinus*, the other lieutenant general, and then seized *Thurii* and *Metapontus*. *Vatinius* coming up with his forces, and *Spartacus* declining a battle, though *Crixus*, a *Gaul*, next in command, was urgent to engage, he shut them up in their camp, and cut off their supplies; but *Spartacus* having by stratagem escaped with his army, on the *prætors* pursuit he encountered and put him to flight, and then marched into *Cisalpine Gaul*, his troops amounting to forty thousand men, whose cruelties and brutalities so far offended *Spartacus* that he resolved to disband them at the foot of the *Alps*, thereby enabling them, being delivered from severe *Italian slavery*, to get home to *Gaul* and *Thrace*, their native countries; but the licentious soldiers accustomed to rapine defeated his designs. In the next year, the number of the *slaves* being so far increased that there were seventy thousand men under their standards, and *Crixus* having with thirty thousand separated from *Spartacus*, and gone into *Apulia*, two consular armies were at *Rome* thought necessary to oppose them, and a third to subdue their detachments. The new consuls *L. Gellius Poplicola* and *Cn. Cornelius Lentulus* commanded the two first, and the pro-consul *Anius* the other. *Gellius* marched with *Anius* against *Crixus*, less qualified in all respects for command than *Spartacus*, and coming suddenly upon him with their legions they brake his forces, put them into confusion, and made such a terrible slaughter, that they left *Crixus* and twenty thousand of the insurgents dead upon the spot. *Lentulus* in the mean time marched to the extremity of *Cisalpine Gaul* against *Spartacus*, who was endeavouring to gain the *Alps*, and for that purpose by his marches fatigued *Lentulus* in his pursuit; but on hearing the defeat of *Crixus*, and that the victors were hastening to join him, he suddenly gave him battle, routed and dispersed his army, and then directly marching against *Gellius* he overcame and put him to flight. *Rome* was never more humbled than in the disgrace she suffered in her two consuls; a *Thracian*, a gladiator, and a *slave* had effaced the glory of the *Roman* generals, and braved the conquerors of the world. His subsequent conduct rendered him still more terrible; he gave no quarter to the *Roman* soldiers whom he had taken prisoners, but sacrificed them all, to obliterate the defeat of *Crixus*, who had so rashly separated from him; and his army now consisting of one hundred and twenty thousand

slaves.

Slaves, for he rejected all others, he suddenly conceived the design of besieging *Rome*; but on mature consideration, being persuaded that his troops were much fitter for action in the open field, he returned into *Lucania*, and posted himself on the mountains near *Thurii*, where he erected his magazines.—In the year 682, when *Spartacus* made *Rome* tremble, and the mistress of the world was in danger of being overcome by her own *slaves*, her corruptions, factions, and improvidence, which spare no human society, were so far encreased that she chose two consuls notoriously unequal to their office; however *M. Crassus* being chosen *prætor*, the senate wisely gave him the command against *Spartacus*: the nobles were ready to attend him, and the people considering him as one of the most regular, sober, and compassionate men in the city crowded to enrol themselves under his standards. In a few days he had six legions complete, which with two legions composed of the remains of the last years defeats made a formidable army. To reconoitre the enemy, and prepare for his own advances, he sent *Mummius* with two legions, with orders to follow them in their marches, but not to fight, or even skirmish with them; nevertheless *Mummius* engaging he was beaten. *Crassus* reprimanded him, and decimated five hundred legionaries who had fled. His first attempt was on a body encamped apart, of whom he made so great slaughter that scarce a third part retreated to *Spartacus*. He then directly attacked him, and got the advantage. *Spartacus* being now for the first time dismayed, he crossed *Lucania*, and encamped with his army on the sea-shore, with intent to carry the war into *Sicily*; but the pirates with whom he had agreed to transport his troops took his money and disappointed him; wherefore he decamped, and posted himself on a peninsula near *Rhegium*, and in vain attempted to cross the streight. *Crassus* who had followed him was wholly intent on shutting him up where he was posted, and reducing him by famine: for that end he cut a deep ditch cross the isthmus, and built a thick and high wall. *Spartacus* for some time had not a true sense of his danger; but the daily consumptions of a numerous army convinced him that he must obtain supplies by the sword, or perish. He then made various attempts in vain to force a passage, in one of which he lost twelve thousand men; but afterwards, in a cold stormy night, he forced his way through an unfinished part of the wall with a third part of his army. This success-
ful

ful effort so alarmed *Crassus*, that he advised the senate to recall *Pompey* from *Spain*: however following *Spartacus* in the rear the *slaves* came out of the peninsula, and joined their general, who again became master of the field with an army more numerous than the *Romans*; but he was soon weakened by a new division; for the *slaves*, natives of *Gaul* and *Germany*, or the descendants of such, encamped separate on the banks of a lake in *Lucania* under two new commanders, *Cannicius* and *Castus*. This reanimating *Crassus* he attacked the *Gauls* in their intrenchments, whom he would have routed if *Spartacus* had not come to their aid; who was so far from hearkening to his just resentment that he continued to encamp near them. *Crassus* persisting in his design of encountering the *Gauls*, by an excellent stratagem well conducted deceived *Spartacus*, and falling upon them slew thirty thousand, with their two generals, before *Spartacus* could come to their relief, who after this defeat marched towards *Petelia*, and beat two of *Crassus* lieutenants who followed him; and being still intent on carrying the war into *Sicily* he drew near to *Brundisium*; but giving credit to a false rumour that *Lucullus* was at sea, and would soon land in *Italy*, he returned into *Lucania*. The two generals were now desirous of coming to a battle, and after some skirmishes the armies being drawn up in battalia they engaged. While *Spartacus* lived the dispute was vigorous; but his valour carrying him too far, in order to fight *Crassus* in person, he made his way through the *Roman* battalians with surprizing resolution, til coming up to *Crassus* guards he slew two of the centurions: but *Crassus* wisely avoiding the combat retired into the middle of his legions. *Spartacus* then attempting to brake thro' them, his own guards, instead of supporting him, fled, and left him in the midst of the enemy, where after behaving with all possible bravery he fell, admired even by his enemies, who said that nature in forming him had, through mistake, joined the soul of an hero to the body of a *slave*. *Spartacus* being dead a general rout ensued, wherein forty thousand *slaves* are said to have been killed. The *Romans* lost about a thousand men, but recovered three thousand prisoners. Forty companies of the *slaves* fled to the mountains, where they were surrounded, and hunted like wild beasts, and those who were taken alive being reserved for punishment, six hundred were crucified on the road from *Capua* to *Rome*, as a terrour to the numerous *slaves* in *Campania*.
When

When *Crassus* victory was thus in a manner accomplished the senate commissioned *Pompey* to complete it, who setting out with the troops he had brought from *Spain* found little occasion for them: however one *Publipor*, a vagabond *slave*, having collected about five thousand of the fugitives, *Pompey* marched and vanquished them with ease; but, incited by the excess of his vanity, was not ashamed to write to the senate “ that *Crassus* had indeed vanquished the gladiators, but he had plucked “ up this fatal war by the roots.”

In the next place let us consider the utility of *slaves*, and how far they were instrumental to the pride and luxury of the *Romans* when their depravities caused the loss of their own liberty, and introduced their subjection to the most odious tyrants; and in subsequent times, authors having given us the names of above fifty different offices to which they were appointed, and *Lipsius* in his treatise of the *Roman* grandeur cites a passage of the elder *Pliny*, which relates that *C. Cæcilius Claudius Isidorus*, a *plebeian*, in the time of *Augustus*, declared by his will, that although he had sustained great loss by the civil war, yet he left four thousand an hundred and sixteen *slaves*. He afterwards cites the relation of *Vopiscus*, that *Proculus* when he assumed the empire had armed two thousand of his *slaves*. He was a tyrant that conspired with *Bonofus* to oppose the emperor *Probus*, who began his reign *Anno Domini* 277. He then observes that *Bellisarius* had twelve thousand young *slaves*, as *Ammoinus*, *Regino*, and others testify; and likewise gives the following passage from *Athenæus*. “ Some *Romans* had from ten to twenty thousand *slaves*, “ not to make gain from them, but only as their attendants and followers;” and he concludes with the relation of *Capitolinus*, that *Gordian*, before his accession to the empire, when *ædile*, exhibited to the *Roman* people twelve monthly shews at his own expense, and in them sometimes five hundred pair of gladiators; never less than an hundred and fifty, with great numbers of wild beasts.

The *Roman slaves* were frequently well skilled in arts and sciences, had the care and instruction of the children of their masters, served as their secretaries, amanuenses, and stewards, and discharged all domestic and other offices respecting their masters service and affairs in the city, and cultivated, and took care of their estates in the country; nevertheless, however acquired, they were all by law, or custom, which

had the force of law, held by their masters under the same hard conditions, repugnant to nature, reason, justice, and humanity, which form the proper test of human laws. They were not considered as human persons, but as goods or chattles; *pro nullis, pro mortuis*, or as quadrupeds: their scourges, chains, and sufferings in point of food and raiment subjected them to greater hardships than any cattle; they were incapable of being injured, and their masters having the power of life and death over them could kill them with impunity; a power which was sometimes exercised without the least regard to justice or humanity. Of this we have a memorable instance in the conduct of *Vedius Pollio*, a friend of *Augustus*, mentioned by *Pliny*, *Dio Tacitus*, *Seneca* and *Tertullian*, who having a large fish-pond stored with lamprey eels, into which *Pliny* saith he cast his condemned slaves, *Seneca* informs us that *Augustus* supping with him, and a young slave having casually broken a crystal cup, he ordered him to be thrown to the lampreys. The boy being instantly seized escaped, and falling at *Cæsar's* feet, entreated only that he might suffer any other death rather than be eaten, who being moved with this cruelty saved the boy, and ordered all *Pollios* crystal vessels to be broken in his presence, and the fish-pond to be filled up. *Pollios* cruelty drew from the same author the following humane reflection, "It is praise worthy to command servants with moderation, and with respect to a slave it is to be considered not how much he may suffer with impunity, but how much the nature of what is good and equitable permiteth; which commandeth us to spare even captives and bought slaves; with how much more justice doth she enjoin us not to use free, ingenuous, and honest men, as slaves, but as those whom you excel in degree; and of whom not the slavery but the charge is delivered to you. Slaves may fly to the statue [of the emperour.] Though all things are lawful against a slave, there is somewhat which the common right of living creatures forbiddeth to be lawful against man, because he is of the same nature with yourself." They could take no estate by descent or purchase; they could neither plead nor be impleaded; whatever they acquired was their masters, except their *peculium*, or petty savings; they had no right of marriage, and their children were all slaves, and the property of the masters of their mothers; a derelict slave was liable to be seized and held by the right of prior occupancy; and they were subjected to other grievances.

The

The sole means of escaping these horrid miseries were death, or manumission: of the latter we have this account given in the *Digests*.
 “ Manumission is a letting go from the hand, that is, the gift of liberty: for whilst any one is in servitude he is put under the hand and power, when manumitted he is freed from power. Which thing took its rise from the law of nations; in as much as by natural law all were born free, nor was manumission known when servitude was unknown. But when servitude by the law of nations prevailed, the benefit of manumission followed; and whereas we were by one natural name called men, by the law of nations there began to be three, *free-men*, and the contrary to these, *slaves*, and a third kind, freed-men, that is, those who had ceased to be *slaves*.”

The despotic power of the master over his *slaves*, and their extreme misery and danger, were moderated by degrees; the barbarous power of the master to expose his *slaves* by reason of tedious sickness was not taken away immediately, but in process of time, by the *Christian* emperours. The provision made herein by *Claudius*, according to the relation of *Suetonius*, is remarkable. “ Certain persons having sent away their sick and disordered *slaves* into the island of *Aesculapius* *, weary of waiting their recovery, he enacted that all those who were dismissed should be free, and not return into the power of their masters, if they recovered: but if any one chose to kill rather than dismiss them, he should be subjected to the crime of murder.” In the reign of *Nero* his successor another barbarity of the master was restrained, as we learn from the words of the *Digests*. “ After the *Petronian* law, and the decrees of the senate respecting that law, the power was taken from masters of delivering their *slaves* as they thought fit to encounter wild beasts; however on the *slaves* being brought before a judge, if the masters’ complaint be just, he may thus be given up to the punishment.” And we have the like information “ that *Hadrian* banished one *Umbria*, a matron, for five years, because she had very cruelly misused her bond women, for the most trifling causes.” *Spartian* informs us that this emperour prohibited masters to kill their *slaves*, and ordered them to be condemned by judges when they deserved it. The following rescript

* An island in the *Tiber*, where there was a temple erected to *Aesculapius*.

of *Antoninus Pius* to the proconsul of *Bætica* is contained in the *Institutes* and *Digests*. “ The power indeed of masters over their *slaves* ought to
 “ be uncontroled, nor should any mans right be withdrawn ; but it is the
 “ interest of masters that aid be not denied to those who justly implore
 “ it against cruelty, or hunger, or intolerable injury. Therefore take
 “ cognizance of their complaints who of the family of *Julius Sabinus*
 “ have fled to the statue [of the emperour] and if you shall find they
 “ have been more harshly used than is equitable, or infamously injured,
 “ order them to be sold, that so they may not return into their masters
 “ power ; who if he elude my constitution shall know that I will se-
 “ verely punish the offense.”

The codes of *Theodosius* and *Justinian* contain the following edict of the emperour *Constantine*. “ If a master hath corrected his *slave* with
 “ rods, or straps, or hath put him in irons in order to secure him, dis-
 “ tinction or interpretation of days being rejected, let him sustain no
 “ fear of crime for the death of the *slave*. But he may not use his
 “ right immoderately ; for he becometh guilty of homicide if he hath
 “ killed him wilfully by the stroke of a club, or stone ; or having used
 “ a dart hath inflicted a deadly wound ; or hath ordered him to be
 “ hanged ; or hath cruelly ordered him to be cast head long ; or hath
 “ poisoned him ; or hath mangled his body by the public punishments,
 “ by tearing his flesh with the claws of wild beasts, or by burning his
 “ members ; or by nearly occasioning his dying under the tortures, with
 “ the cruelty of savage barbarians. Given the fifth of the Ides of
 “ May, at Rome. *Constantine* A. the fifth time, and *Licinius* being con-
 “ suls. [319.]”

Slaves had been usually manumitted before the *prætor* at *Rome*, and the *proconsul* in the provinces, by the use of certain words, and a rod named *vindicta*, with which he struck the head of the *slave*, and, turning him round, said, “ We declare this man to be free, and a *Roman*
 “ citizen :” but *Constantine* introduced into the church new methods of enfranchising *slaves*, to make the acquisition of their liberty more easy, and provided that by whatsoever forms or words the enfranchisements should be made in the churches, those who were manumitted should enjoy full liberty. For these and his other institutions made in favour of *slaves* of any sect, and of *Christian slaves* in particular, he was extolled by the
 fathers

fathers of the church, especially by *Lactantius*, who taught that servants ought to be treated like brothers by their masters. *Slavery* was henceforward, I presume, continued by most *Christians* under the preceding or greater mitigation of its hardships, or became gradually diffused in different parts, until it was entirely abolished in *Christendom*; and altho' the different states of men in *Britain*, in times past, generally are, or may with more ease be better known than the states of men in several other countries, it may not be improper to observe that the *Welsh* laws of *Hoel the Good*, and other *princes, published by *Dr. Wootton*, contain the two following, Book III. ch. 2. "Of mulcts for injury, and of compensations to be paid for murder. § 50." "There are two kinds of men for whose murder the king ought not to require compensation, although they be killed within his jurisdiction. Another mans servant; for the master hath the same power over his servant as over his yoke-beast." Book IV. §. lxxxi. "There are three men whose slaughter shall not be compensated." — 3. The third is a servant. No compensation is settled for his murder, except that the price of him shall be paid to his master, as animals slain ought to be compensated. *Dr. Ayliffe*, in his Pandect of the *Roman Civil Law*, speaking of the different degrees of men among the *Saxons*, says, "The most inferiour of all were those that were antiently stiled *Lazzi*, or *Slaves*, being the dregs of the people, and wholly at the will of the lord to do any service, or to undergo any punishment; and yet the magnanimity of the *Saxons* was such they abhorred tyranny; and hard usage by beating, torture, or imprisonment was seldom used amongst them, in order to compel them to serve. This wrought reverence in these men towards their lords or masters, and maintained a kind of generosity in their minds that they did many brave exploits, and many times not only purchased their own freedom, but even brought strength and honour to the kingdom." The laws of king *William 1st*, † entitled, *Carta regis Willelmi Conquistoris de quibusdam statutis*, contain the two following.

" 65. Of servants, and their manumission.

" We prohibit any person to sell a man out of his country: but if any person be willing to make his servant free, let him deliver him to

* He began his reign in the year 940.

† Published by *Dr. Wilkins*.

“ the sheriff by the right hand in full county ; he ought to pronounce
 “ him free from the yoke of his servitude by manumission ; and let him
 “ shew to him the free ways and gates, and deliver to him free arms,
 “ to wit, a launce and sword ; and from that time he is made a free
 “ man.”

“ 66. Of Servants.

“ Also if servants remain without calumny a year and a day in our
 “ cities, boroughs, walled places or castles, from that day they be-
 “ come free, and let them be perpetually free from the yoke of their
 “ servitude.”

When the entire abolition of slavery in *Christendom* took place is somewhat uncertain ; the eleventh century hath been assigned by some for the period of it ; but this is a mistake, for *Mezeray*, treating of the affairs of the church in the twelfth century, saith that many persons by their wills enfranchised numbers of their *slaves*, and that this was one of the causes of the gradual abolition of *slavery* in *France*. *Bartolus*, the most eminent *civilian* of his time, who was living in the year 1300, says that *slaves* were then no more.

The great and grievous invasions, wars, and conquests in the western *Roman* empire, with the consequent erection of many new governments, and their subsequent divisions, contests, wars, and their various conditions and transfers of dominion, contributed to the diminution and extinction of *slavery*, and introduced the *feudal* government. The new sovereignties of various forms raised upon the *Roman* ruins were so numerous, especially in *Italy*, that the fugitive *slaves* had not far to run before they could gain a certain place of protection, and the frequent wars between these small states, principalities or republics made it necessary to arm the *slaves*, for whose encouragement, and their own safety, they manumitted them ; for whom they armed they must trust, and no trust can be reposed in any but free men, it being true, in *Senecas* words, *totidem esse hostes quod servos*.—It seems a point well agreed among the learned that the northern invaders introduced the *feudal* government, although by their various researches they have not been able to ascertain the *epoca* of this regimen, which made so great a change in the state of men, and had so great influence on the future state of *Europe* ; the *Greeks*, *Romans*, or other ancient people, they observe, ac-
 knowledge

known no other dignity but that of orders and offices ; but by the institution of *fiefs* a third order of dignity was established, which was the lordships. Some not without reason, suppose that the idea of this new mode of government was first taken from the policy of the *Roman* emperours, who to secure the frontiers of the empire granted to the captains and soldiers who had signalized themselves in the conquests lands there, as a reward for their bravery, with all the profits, whence this land was called *beneficium*, whereby the continuance of their military courage was excited for defence of their own lands, *ut attentius militarent propria rura defendentes*, as *Lampridius* saith.

The fountain of *fiefs* hath been deemed as uncertain as the head of *Nile* was in times past. According to *Montanus*, the *Goths* were the founders of them. Their fatal entrance into the *Roman* empire, repelled in former times, was in the year 376. On their request, and promise of good behaviour, they were admitted into *Thrace* by the emperor *Valens*, moved by his flatterers, who extolled his good fortune, in that he should now from remote regions gain such additional military strength as would render his armies invincible, and he would moreover augment his treasures ; and thus, *Ammianus Marcellinus* saith, the destruction of the *Roman* world was brought about. The *Goths* passed the *Isther* day and night in such vast multitudes that they could not be numbered ; and before they were disposed of they were in so great want of provisions, and the *Roman* generals took so great advantage of their sore distress, that they were forced to give as many persons to become *slaves* as were equal in number to the dogs they received for their sustenance. Exasperated by this and other cruel usage they had recourse to arms, and likewise exercised the most horrid cruelties, sparing neither sex nor age ; and *Lupicinus*, the chief author of their grievances, marching with an army to subdue them, they encountred him, and cut off the greater part of his army, and after waging war with several *Roman* generals, with various success, at length *Valens* commanding in person, while he lay encamped not far from the enemy, *Gratian*, his nephew, and partner in the empire, by letter informed him that having routed a vast army of *Germans*, that had passed the *Rhine*, he was now marching to his aid, and entreated him to wait til he could come up and partake of his dangers ; but in a council of war the flattering advice of
certain

certain great personages prevailed, who envious of *Gratians* glory persuaded *Valens* to come to a battle without delay, wherein the *Romans* overpowered by numbers were slain rather than conquered, having sustained no such defeat, save that at *Cannæ*; and *Valens* thinking it beneath his dignity to survive so great a loss, rejecting all proposals of safety by flight, was slain by the barbarians, an illustrious instance of the truth of the ancient proverb, *There is no remedy for the bite of the sycophant.*

Fiefs subsisted in *France* in the latter part of the sixth century, as the famous *French* lawyer *Molineus*, and other *French* authors testify: but whoever were their authors, or whensoever this institution commenced, the *feodal* lands seem clearly to have been granted in a manner far less beneficial to the landholders than the lands granted by the *Roman* emperours were. Many, if not all the *fiefs*, were at first granted to barons or lords, to be held at the will of the prince; consequently they who held under them could have no better estate, though in point of service they might have a much worse. The *Langobards* or *Lombards* are agreed to have so much improved *fiefs* by their laws and regulations that these were adopted by other nations: king *Rotharis* was the first who gave them written laws, composed and enacted in a diet held in *Pavia* by this prince, in the year 644, with the lords and magistrates, exclusive of the ecclesiastical order, and of the commons, whose condition hath been therefore by some compared to that of the old *Germans*, of whom *Cæsar* said, *plebs servorum habebatur loco, quæ per se nil audet, nullique adhibetur concilio.* In time the melioration of *fiefs* so far took place that the lords held of the prince during their lives, and at length obtained an estate of inheritance in them; and natural justice and humanity so far prevailed in different parts that some, though far less proportionate, benefit accrued to their tenants, while innumerable other inferior *feudatories* in many other countries, who occupied these *feodal* lands, were held in servile condition, though not in a state of absolute *slavery*, to the abolition whereof this *feodal* system had likewise contributed; after which more humane treatment of the captives or prisoners taken in war, and their permutation by order of the several sovereigns of the captors, or their detention until ransomed took place. Sir *Henry Spelman*, in his *Glossary*, informs us that *William* the Conqueror [conquestor]

ter] first brought *feodal* servitudes into our *Britain*, and that afterwards all things resounded with the grievances of *feuds*, not so much as heard of in the time of the *Saxons*. Explaining the words *Conquestus* and *conquisitium*, he saith, *Hinc Gulielmus*, 1. *Conquestor dicitur, qui Angliam acquisivit*, i. *acquisivit*, purchased, *non quod subegit*; and cites various authors in support of this exposition; and complaining of the grievance of *fiefs* in his time he saith that death did not put an end to them; for the lord took the custody of the *feodal* lands, and of the pupillary heir, with their marriage.

But in the year 1645 the two houses of parliament passed a vote or ordinance whereby the court of wards and liveries was taken away, and surceased on the 24th of February following in that year; and by act of parliament passed in the twelfth year of the reign of king *Charles II*, that is, in the year 1660, it was recited that “ it had been found by former experience, that the court of wards and liveries, and tenures by knights service, either of the king or others, or by knights service *in capite*, or socage *in capite*, of the king, and the consequents upon the same, had been much more burthensome, grievous and prejudicial to the kingdom than they had been beneficial to the king; and that since the intermission of the said court many persons had disposed of their lands held by knights service; whereupon divers questions might arise, if not in season prevented; and therefore it was enacted, that the court of wards and liveries, and all wardships, liveries, primer seizins, and *ousterlemains*, values and forfeitures of marriages, by reason of any tenure of the kings majesty, or of any other, by knights-service, and all mean rates, and all other gifts, grants, charges incident or arising for or by reason of wardships, liveries, primer seizins or *ousterlemains*, should be taken away and discharged, and were thereby enacted to be taken away and discharged from the said 24th day of February, 1645.” And the several grievous tenures therein specified, with all their dependencies, were thereby taken away and discharged from the time aforesaid, and others turned into free and common socage.—Lord *Coke*, in his chapter of the court of Wards and Liveries, saith, “ The good king *Henry 1st*. son of the Conquerour, finding that the wardship of the body and lands of his tenants by knights service exacted by his father was both grievous and unjust, by his great charter *anno*

“ 1^{ma}. regni sui, reciting *quod regnum suum oppressum erat injustis exac-*
 “ *tionibus, &c.* (and particularly *tempore patris sui*) did grant (amongst
 “ other things) *quod si uxor cum liberis remanserit dotem suam & maritagi-*
 “ *um habebit, dum corpus suum legitime servabit, & eam non dabit nisi secun-*
 “ *dum velle suum, & terræ & liberorum custos erit sive uxor, sive alius pro-*
 “ *pinquior, &c.* To be short, by that golden charter, *omnes malas con-*
 “ *suetudines quibus regnum Angliæ injuste opprimebatur inde abstulit, & le-*
 “ *gem regis Edwardi reddidit.*” “ These were called king Edwards laws,
 “ not that king Edward made them, *sed quia ex tribus legibus, sc^{ilicet}. Anglo-*
 “ *rum, Danorum, & Merciorum unam legem communem edidit.*” How far
 the purpose of this golden charter was in subsequent times defeated needs
 no mention. In the same chapter he also saith that “ All the lands in
 “ England originally moved from the king, and were [therefore] holden
 “ of him mediately or immediately :” but how far the revolution, or
 the adoption of the present royal family, whereby the people selected
 their own princes, affected the tenure of their lands seems not to have
 been specially considered at either of those periods. Land and labour,
 with the rights requisite to enjoy their fruits, being the chief sources of
 human support and comfort : we make use indeed of the sea, but that
 is for the sake of our benefits at land ; and the welfare of the people be-
 ing the proper object of all government, the arts of empire require the
 knowledge and consideration of the state and condition of the several
 parts of any dominion, in order to their regulation and improvement for
 the common good of all, and the more extensive and divided the parts
 are the more necessary this knowledge becomes. With respect to our
 colonies, whose free constitution incited the settlers to enlarge the pub-
 lic dominion by their numerous expenses, and grievous sufferings, our
 deficiency herein, with the rejection of that information which was so
 much wanted, and they had so good right to give, it being in vain to
 claim any human right when the right of defence is not admitted, hath
 caused great mischiefs, of which I can foresee no end, especially con-
 sidering the perseverance in some of our errors, with the addition of
 others. Montesquieu saith every government immoderately exercised is
 despotic ; and for my part, I confess the refusal of freemen their right
 of free defence appears to me extremely immoderate, injurious, and
 incompatible with that love of justice which ever was and ever will be
 the

the best guardian of concord, the lasting source of public felicity, strength and safety. When our erroneous conduct commenced their heads and their hearts were so well disposed towards us, and might with great ease have been so continued, that notwithstanding our errors in negotiating the late peace, their cordial and ready union of their numerous forces with our own might well have rendered the possessions of our late enemies in that quarter in a great measure pledges for their proper behaviour in others: but nothing, I conceive, is more certain than that good regimen, policy and laws do not partake of prejudice, caprice, or passion; and the defenceless state and sufferings of the numerous subjects in *India* lately reduced under his majestys obedience, by whose labours the kingdom, and many *British* subjects have been so much enriched, have, in my humble opinion, for some time loudly called upon the wisdom, justice, and humanity of the nation for protection.

In the fifteenth century a passage to *India* by sea, and *America* were discovered by the *Europeans*. Prince *Henry*, son of *John* 1st. king of *Portugal*, and *Philippa* daughter of *John* of *Gaunt*, began the former in 1417, by sending out two ships upon this service, and the discovery being pursued by the prince and the kings of *Portugal*, who availed themselves of their gradual discoveries on the *African* coast, at length, in the year 1486, the extreme land of *Africa* towards the South was discovered, in the reign of king *John* 2d, and named the Cape of *Good Hope*, by him, who for his great wisdom and excellence was surnamed *The Perfect*. *Maffaus* the historian, employed by *Philip* 2d, of *Spain*, and whom several princes had endeavoured to draw into their service, relates that this prince was solicitous by munificence, amity and prudence, rather than by acts of violence, to enlarge and secure his acquisitions; and it is notorious that if this noble example had been followed by others *America* and *India* would have been in a far more happy and secure state than they are at present, infelicity and danger being the natural offspring of injustice and cruelty, and the most powerful governments when void of justice mere *magna latrocinia*.

It is well known that within a few years after this discovery made by king *John*, the princes of *Spain* and *England* discovered *America*. None of these princes, I presume, intended to introduce *slavery*, from
which

which their own countries were freed, into their new dominions; but all their successors have not been able to say, with the late king of France, that " he was not so bad a politician as to use his new worse " than his old subjects."

To destroy eleven millions, and distress many more in *America*; to starve or distress twelve millions in *Asia*, is not the way to promote the dignity, strength, and safety of empire, but to draw down the Divine vengeance on the offenders, for depriving so many of their fellow creatures of life, or the common blessings of the earth, and to secure their disgrace among all good men as long as that shall endure; whereas by observing the humane principle of preservation with felicitation, the proper principle of all rulers, their empire might have received all reasonable benefits, with the encrease of future glory.

Peter Martyr, protonotary apostolical, and a member of the *Spanish* council for *Indian* affairs, by letter written to cardinal *Ascanius Sforza*, on the arrival of the *Victory*, in September 1522, after making the first circumnavigation of the earth, acquainting him with the discovery of the new world, and the loss of the principal ship, under the command of *Columbus*, near the shore of the island which he named *Hispaniola*, among other things informed him that the *Spaniards* on their landing having taken an *Indian* woman, treated her kindly, and let her go, " shortly after a great multitude of the natives came running to the " shore to behold this new nation, whom they thought had descended " from heaven;" and swimming to the ships brought gold with them, which they exchanged for trifling wares; that their mutual familiarity encreasing the *Spaniards* were honourably entertained on shore by the neighbouring king; and that the *Indians* shewed much humanity to the *Spaniards*, and helped them with their *canoes* to unlade their stranded ship; " and that with such celerity and cheerfulness that no friend for " friend, or kinsman for kinsman, in such case moved with pity, could " do more." But this humane disposition and friendly assistance, with the most hospitable reception of strangers, were so far from inducing a continued suitable behaviour in them, that added to common justice they could not secure to the natives the enjoyment of their own country, with the rights common to the inhabitants of all the earth, to whose country discovery could give no right, it being apparently repugnant to reason,

reason, common sense, and the nature of property, to suppose that to acquire the knowledge of the property of others transfers the same from the owner to the discoverer; and it is evidently most unreasonable and irreligious to suppose that injustice, oppression, murder, rapine, or devastation are compatible with the spirit of natural and revealed religion; and although the grievous sufferings of the *Indians* in point of life and liberty, estate and comfort, are generally well known, it may not be amiss to observe that *Solerzano*, doctor of laws, sometime senator of the *prætorium* of *Lima*, and afterwards patron of the royal treasury in the supreme council of the *Indies*, in his elaborate treatise *De Jure Indiarum*, published at *Madrid* in 1639, Tom. 1st, book 1st, ch. 28th, recites the complaint of a religious and learned father *Francis Bernardine de Cardenas*, contained in an essay written by him, wherein he grievously bewaileth the wretched lot of the *Indians*, for that they alone and infirm are compeled to bear the whole weight of the kingdom, while the *Spaniards* and *Hebrids* basely indulge in idleness, and make sport of their misery. *Solerzano* afterwards relates that a certain viceroy, by what right he knew not, subjected the *Indians* born in lawful marriage to tribute and servitude, but had left the spurious and adulterous issue of the *mestizi* and *mulatoes* exempt and free; whereas their subjection to harsher tributes and servitudes would have restrained the *Spaniards* from those conjunctions, whose male issue were subjected to grievous burthens; nor would the *Indian* women have so much desired familiarity with the *Spaniards*, nor boasted of their issue by them, as being born exempt, which occasioneth them to desert their own husbands, and to hate or contemn them, when they enjoy any *Spanish* lover, and that instead of lawful issue, and useful to the commonwealth, this furtive, adulterine and uselefs, and for the more part hurtful, redounded; and moreover that they frequently dash the lawful issue by the *Indians* against the wall, or suffer them to perish with hunger and cold, but nourish the *mestizi* with their utmost care and abilities.

“ With respect to persons born of Spanish parents,” he saith, “ they doubtless have the same right with other *Spaniards*, the *Indian* provinces being a certain augment of the kingdom of *Castile* and *Leon*, and accessorily united to it—thus all rights, privileges and honours

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“ which

“ which those kingdoms and their vassals have are communicated to
 “ them, conformable to the edict of the emperor *Antoninus*, whereby
 “ *all who were in the Roman world were made citizens.*”

Law and liberty, justice and equity being the proper foundations of the *British* government, and humanity the most amiable characteristic of the people; and the *English* government having heretofore censured the extravagant claims of empire made by the *Spaniards* in *America*, and the most worthy men joined with those of other nations in censuring the *Spanish* severities, it certainly behoved those who were concerned in the late acquist of large dominions in *Asia* to avoid their resemblance, and in the exercise of their power to observe the dictates of equity and goodness. Every acquist of new dominion made by the subject belongs to the prince; when made without his authority he may accept or reject it; if acceptance take place, protection and subjection being by nature inseparable, he then becomes bound to protect those over whom he hath taken the charge, and for his conduct herein is answerable, at least to Almighty God, by whom kings reign and princes decree justice, and who never gave to man authority to deface or embitter his creation by the cruel exercise of power over the lives or comforts of his fellow creatures. Whole nations having in ancient and modern times unhappily been reduced to a state of *slavery*, and that being by the learned divided into perfect and imperfect, I leave it to those who are better acquainted with the facts to declare the condition of the kings surviving new subjects in *India*, and by what right, or under what specious pretense, the common disease of modern policy, the dead and the living were reduced into a state of misery.

Slavery is thus defined in the institutes and digests of the *Roman* law.
 “ *Slavery* is a constitution of the law of nations, by which any one is
 “ subjected, *contrary to nature*, to the dominion of another;” and tho’
 all men are by nature equal and free, and it is apparently contrary to nature for man to be the property of man, and saleable from man to man, like the beasts of the field; and it is certain that the law of nature is the law of God, and immutable, modern advocates, as well as others, contend that the captives in a just war do by the law of nations well become *slaves* of the conquerour, who had right to take away their lives; and they seem to consider it as a favour to grant to the vanquish-

ed their election of death or *slavery*, and then hold that their acceptance of the latter subjects them and their innocent descendants to be *slaves*. In all cases of life and liberty the irreverfible law of humanity makes, I conceive, a proper part of the univerfal and perpetual law of confideration; and when it is confidered (1.) That this doctrine tends daily to depopulate the earth, which was made habitable and free, or to multiply *slaves* upon it. (2.) That both parties, tho' only one hath right, infift on the juftice of their caufe; that they make war with various fuccefs, and that when the innocent, who take up arms in their own defence, are overcome, themfelves, with their offspring, and fometimes the other innocent numerous inhabitants of their country, men, women, and children, with their pofterity, are enslaved; fo that juftice or mercy hath no place in their fufferings, and the diftinction made in favour of *slavery* between a juft and an unjuft war, however plaufible it may appear, and delude the authors or their followers, hath no force to refcue the unhappy fufferers from the ftate of their mifery. (3.) That the ambition, or other vicious or capricious paffions of the rulers of the earth, are the frequent caufe of their wars, however they may with follicitude feek out and fuggelt other pretences, and they efteem it a high point of prerogative to declare war at their pleafure, to be maintained with the lives and fortunes of their people, whom they often compel to take up arms in maintenance of a war which, if they were as frank as *Brennus the Gaul*, they would declare they profecuted by the right of the ftrongeft. (4.) That human pride hath united with the luft of domination, avarice, injuftice and cruelty in caufing the encrease of *slavery*; the principle of high value, held in excefs by the *Greeks* and *Romans*, made them efteem other nations barbarians, and reconciled them to the ufe of fo many *slaves*, although the latter fuffered fo much in point of diftreff, difgrace and danger by them, from whom other *European* nations adopted the ufe of *slaves*, without confidering the words of *Seneca*, to cite no other, *tot hoftes quot servi*; with whom Mr. *Locke* fo far agrees as to declare that the perfect condition of *slavery* is nothing elfe but the ftate of war continued between a lawful conquerour and a captive. (5.) *Grotius* (B. 1. Ch. 1. §. 14.) faith a ftate is a complete body of free perfons, affociated together to enjoy their rights in peace, and for their common utility; and the learned *Vitriarius*, in
his

his *Mss annotations*, commenting on the place, saith, "The words *common utility* are to be understood not only "in respect of a state, but "also of all mankind, wherein a state differeth from a company of robbers and pirates." Now, according to this apt and just definition, governments of worse forms having certainly no better right to enslave mankind, on consulting the story of the numerous wars whereby so many nations, and numberless individuals, with their progeny, were reduced into a state of *slavery*, we shall find the far greater part of them were made by men who, instead of having a due regard for common justice, and the common utility of mankind, were ready to sacrifice their lives or liberties to their lawless desires; (6.) "Every thing is "what it is by nature, and not by will, there being no such thing as "an arbitrary essence, mode, or relation;" whatever is by its nature evil cannot be made good; what is unjust by nature cannot be justified; no sanction can be given to tyranny, oppression or cruelty by any prince or nation, or by the united power of many or all nations, who can no more rescind or control the law of nature, which is "a "declaration of the will of God," than they can cause the dissolution of the earth; a million of precedents are of no force against fundamental principles, and the innumerable violations of the law of nature are just causes of complaint, not of their continuance: justice, equity, and mercy are of divine original; equity is equality; and when the Almighty by his prophet reasoned with the *Israelites*, after reforming their errors respecting his dispensations, he appealed to their own consciences, saying, "O house of *Israel*, are not my ways equal? Are "not your ways unequal?" thereby plainly supposing their minds endued with a proper criterion of human actions. The law of nature is the perpetual law of man in his natural and social state, the indispensable law of all nations, and their common standard of good and evil, justice and injustice. *Pufendorf* saith natural law "is so exactly fitted "to suit with the rational and social nature of man, that human kind "cannot maintain an honest and a peaceable fellowship without it." Dr. *Cumberland* saith, "one general law of nature [universal benevolence] at once provides both for the whole system of rational beings, "and its parts, according to the proportion which they bear to the "whole."—Baron *Pufendorf*, on considering whether there be any such

such thing as a particular and positive law of nations, contradistinct to the law of nature, saith " Learned men are not come to any good agreement in this point : many assert the law of nature and of nations to be the very same thing, differing no otherwise than in external denomination. Thus Mr. *Hobbes* divides natural law into the natural law of men, and the natural law of states, commonly called the law of nations. He observes that *the precepts of both are the same : but that forasmuch as states when they are once instituted assume the personal proprieties of men ; hence it comes to pass that what, speaking of the duty of particular men, we call the law of nature, the same we term the law of nations when we apply it to whole states, nations, or people.* This opinion we, for our part, readily subscribe to ; nor do we conceive that there is any other voluntary or positive law of nations properly invested with a true and legal force, and obliging as the ordinance of a superiour power." Dr. *Cumberland* saith " all states are obliged to enjoin nothing contrary to the law of nations, by which he understands those natural laws whereby the actions of all states and private men towards all of what state soever are directed." These authors published their celebrated disquisitions in the year 1672. Mr. *Barbeyrac*, in his comment on *Grotius* (B. I. ch. I. §. 14) saith, " The positive law of nations, distinct from the law of nature, is a mere chimera. I grant there are some laws common to all nations in regard to one another ; and this may very well be termed the law of nations. But, besides that the obligation to obey those laws does not arise from the consent of nations, which cannot take place here, the principles and rules of such a law are in reality the same with those of the law of nature properly so called : the whole difference consists in the application which may be made in another manner, on the account of the different ways taken by communities for determining disputes." — From what precedes, I conceive, it appears that the constitution of the law of nations assigned by the *Roman* law as the warrant for *slavery*, in direct repugnance to nature, and her laws, hath no solid grounds, although it contributed so far to enslave mankind.

" In the 11th of *Elizabeth*, one *Cartwright* brought a *slave* from *Russia*, and would scourge him, for which he was questioned ; and it

" was resolved, That *England* was too pure an air for *slaves* to breathe in." *Rushworth* (vol. 2. p. 468) informs us that when the impeachment of the house of commons on *John Lilbournes* behalf was carried up to the house of lords, against his judges in the star-chamber, the managers cited this noble resolution, so worthy of a free people, and of the constant remembrance of all their posterity, with their spirited defence and preservation of the vital parts of the body politic from corruption, whose progressive contagion would certainly render the air too impure for free men to breathe in.

This resolution was not reported in the common-law-books, the want whereof, with the great want of time necessary to consult history and civil philosophy, whose utility is so great in considering cases of this nature, probably occasioned, as I conceive, the learned Sir *Philip Yorke* and Mr. *Talbot*, when attorney and solicitor general, to give their united opinion, that *slaves* brought hither from the colonies by their masters did not become free. This opinion in course occasioned more of them to be brought over than before; but at length one of them contending with his master for his liberty, he was by the court of common pleas, upon great deliberation, adjudged free, according to my information, received of the gentleman who was solicitor for the master, about twenty six years ago. Afterwards, in conversation with the late intelligent Mr. *John Sharpe*, he confirmed the information I had received, adding that no judgment had been given upon the question in the house of lords.

When the air of *France* was resolved to be too pure for *slaves* to breathe in I am unable to say. In the eighteenth edition of *Moreris* dictionary, published at *Amsterdam*, *Leyden*, the *Hague*, and *Utrecht*, in the year 1740, it is said that "as soon as a *slave* gets on shore in *France* he is free." This dictionary was first published in the year 1674, at *Lyons*. There were eight other editions of it, with various improvements, in the last century, several of them made under the care of Mr. *Le Clerc*, and the ninth published by Mr. *Vaultier*. After two other editions, in the beginning of this century the twelfth was published at *Paris*, in the year 1712, by Dr. *du Pin*, assisted by the abbot *Brochard*. I know not when this passage was first inserted in this work, but presume it hath stood

stood part of it during the last sixty years at least, if not from the first edition.

Mr. *de Vattel*, in a treatise published at *Leyden* in 1758, wherein he considers the principles of natural law as applied to the conduct and affairs of nations and sovereigns, saith, "What is life without liberty? "If any man regard life as a favour when given to him with chains; "e'en let him accept the benefit, let him submit to his condition, and "discharge the duties of it! but let him study them elsewhere; authors enow have treated largely hereon. I shall say no more on "the subject; for that disgrace to humanity is happily banished from "Europe."

Numbers, discipline, union, liberty and martial spirit of the people, with esteem and reverence for their rulers, give strength to the state: in these respects *slaves* are apparently prejudicial; the use of domestic *slaves* frequently promotes pride and idleness in other members of families, and they eat the bread of the subject. — The authoritative admission of one *slave* might in time, through the pride or other motives of the masters, introduce a million, with mischiefs indiscernible. — We have no law of the land to warrant the use of *slaves* upon it; and as the institution of *slavery* would break up the entirety of the free state of the kingdom, and so nearly affect it various ways, the authority of parliament, I conceive, would be absolutely necessary to make it, together with the laws proper to regulate this new order of men; whereas parliaments, it is hoped, will ever be solicitous to preserve the kingdom entirely free, and moreover to prevent *Britannias* pure and noble blood from being polluted by the multiplicity of those conjunctions which produce such a motley disagreeable race, instead of establishing *slavery*, to the great and lasting prejudice of her honour and welfare.

F I N I S.